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DEC 18 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Kitsukawa	) Art Unit: 2612
Serial No.: 09/840,327	)
Filed: April 23, 2001	) Examiner: listed as "Shirley Lu" on cover sheet of Answer and "Shirley Chang" in body of Answer
For: INTERACTIVE TELEVISION SYSTEM	) 50P4366
	) December 18, 2006
	) 750 B STREET, Suite 3120
	San Diego, CA 92101

RESPONSE TO ADVISORY ACTION

Commissioner of Patents and Trademarks

Dear Sir:

Despite having been reviewed by a SPE, the Advisory Action dated December 6, 2006, is internally contradictory, rife with errors, and must be reissued to clarify the record for appeal.

The Board remanded the application to the examiner to consider two IDS, and to indicate whether the last amendment doing nothing more than canceling claims would be entered. The Advisory Action has now issued in response. The following errors must be corrected.

1. In part 7 the Advisory Action indicates that the amendment filed on December 10, 2005 will not be entered, but then indicates that the status of claims for appeal are "2-19 rejected". What evidently escaped the SPE's attention is that the amendment sought only to cancel 1 and 20-25. If the amendment is not to be entered, how can the status of claims for appeal remain 2-19 only?

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FROM ROGITZ 619 338 8078

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2. In the remarks section, the SPE states that "the amendment merely recites the final rejected claims without any remarks. Therefore, assuming it is a request for reconsideration, the finality of the office action is deemed proper." First, the amendment did not "recite the final[ly] rejected claims". It recited only some of the finally rejected claims (claims 2-19). Second, why would the SPE "assume" the amendment was a request for reconsideration when the amendment stated on its face that it was being submitted to place the application in condition for appeal by canceling claims? Accordingly, the remarks section of the Advisory Action is based on an assumption that is facially incorrect.

Clarification is required. Then the case should be sent back to the Board.



John L. Rogitz  
Registration No. 33,549  
Attorney of Record  
750 B Street, Suite 3120  
San Diego, CA 92101  
Telephone: (619) 338-8075

JLR:jg

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